

## **OEAST PALESTINE VILLAGE COUNCIL FEBRUARY 24, 2014 85 N. MARKET ST 7PM**

Mayor Zuch called the meeting to order. Present were Attorney Beagle, Mr. Cohen, Mr. Elzer, Mr. Figley, Mr. Tyger and Mrs. Wisser. Also present were Village Manager Pete Monteleone, Law Director David Powers, Finance Director Traci Thompson and Clerk Misti Martin. The minutes of the February 10, 2014 meeting were approved on a motion by Mr. Cohen, seconded by Mr. Elzer, all in favor.

**AGENDA: DOT HERBERT-FRACKING.** Mrs. Herbert stated she didn't have an issue with Council exploring opportunities of oil & gas leasing for the residents, but her concern was with presenting only part of the picture. She stated it was her understanding that the brochure was a survey to see who was interested in a group lease for horizontal fracking. Council has a moral obligation to present both sides of the picture and consider the long term consequences. Besides the environmental factors there is also the possibility for human error, for example a gas fire that was 50 miles South of Pittsburgh. And there is also the 65% and unitization, those who are opposed to it will be disregarded. The Village owns a large amount of property, and so does the school and that is a very large percentage and she would like to know exactly what percentage it is because if they are aiming for 65% there is already a large portion of that owned by the city. Herbert stated that she knew each lease would be separate and that whatever the city negotiates is what the property owners would receive. She stated it would be appropriate for Village elected officials such as council and the Mayor as well as Village employees such as the Manager, Clerk and Law Director to disclose all of their land holdings with the exception of personal residences as this presents a conflict of interest by direct benefit from this issue, they should remove themselves from these proceedings. Mr. Elzer stated that as long as the people who have to live in the Village to be there (on council) are not benefitting more than everyone else based on what they own, it isn't a conflict. Mr. Cohen stated he disagreed saying it most definitely is a conflict, that it is breaking the law and that they broke the law at the last meeting. Mr. Elzer said there are currently landowners who already leased property and they have no control over that but this proposal would give some control. Mr. Elzer estimated that the percentage of property owns including streets and alleys is about 1%. Mr. Elzer stated in reference to forcing people into this that the Village of Barnesville had around 90% of landowners. No one wants only 65% that is not based on the Village it is based on a unit. They would not come in and take the entire Village and say they have 65% as a drilling unit. There would have to be 3 or 4 units because of the size of the Village. A drilling unit is 640 acres and they could say they want a unit in a particular area and not another. Mr. Cohen stated that Barnesville is completely different from here, what East Palestine is trying to has never been done in Ohio. Barnesville owned property outside the Village and that was leased to a company. That gas company then approached the residents with a lease and was never approved by council. The gas company was already there. Mr. Cohen stated that Mr. Elzer felt there was a substantial benefit in doing this and Mr. Elzer agreed. Cohen then asked him if he hoped to sign and lease and Mr. Elzer said with or without this he hoped to. **REBECCA NELIS.** Ms. Nelis stated that Council "jumped the shark" at the last meeting, no consideration was given to ideas from the residents. Ms. Nelis stated she felt the resolution from the last meeting should be rescinded and replaced with a committee of residents who are neutral and have nothing riding on it and have a forum where people could bring their questions. She said that Mr. Elzer told her that fracking is all around them and that is true so another 8 weeks of investigation is not really going to matter one way or another. She said she would be a member of the committee. All of the concerns should be addressed. She said Mr. Elzer said she would get approximately \$800 for her property but if she has to pay a lawyer \$1200 to write a contract then what is the gain. She just wants everyone to take a step back and look at the options in a reasonable way and then bring it to the people. The residents were against the strip mining issue and this is a lot bigger than that. She stated it's not that she doesn't want to be "on board" but there are too many questions and she can't right now. Mayor Zuch stated she thought it was a good idea to slow down. Mr. Elzer said the brochure is just to find out what people think, he asked how much slower they could go. Mr. Figley said he thought this was just an inquiry. Mr. Cohen stated that the idea of slowing down was appealing, and that the brochure is really only designed to get information back from the people who want to do this and it shuts out everyone who doesn't own property and who don't want to do this, that they only want the people who want to do this fill out the form and return it and that is not fair. Mr. Elzer said they can then tell how many people are interested and Cohen said it doesn't tell them that. Cohen asked how many property owners there were in the Village and Elzer said around 2000. Elzer said they would be hearing from the people who want to and the others don't. Cohen stated according to the resolution it isn't a survey, section 2 of the resolution states that the Manager and Law Director can take the results of the survey to a gas company. Elzer said there is nothing to take to a company if there isn't 65%. Cohen said between the Village and the school there is already a huge chunk of that 65%. Atty. Beagle said all that matters is the people are still being shut out and asked if they wanted them to come in and say they aren't interested and Elzer said no,

just don't fill out the form. Mr. Tyger said they could just come in and put "no" on the brochure, Atty. Beagle said if they are going to that it should just be put before the people. Atty. Beagle said the people want it put on the ballot. Mayor Zuch said we have to have public meetings to give the residents the information before they can vote. Atty. Beagle said she has been saying that all along. **BECKY FOSTER.** Mrs. Foster she feels this is moving too fast and people need to be informed before they know how they feel about it and filling out the brochure. It should be put on the ballot. Mrs. Foster said a gas lease will be intact for a long time and it can cause problems with people buying or selling homes, there was an article in the paper and her daughter has had that very problem buying a home in Seville. She stated that this is all new and no one knows the long term effects on the water, air, and ground. She stated Duke University just finished a study showing an increase in methane levels in water supplies in communities near drilling sites. She said a lot of communities are drawing up legislation to keep this out of the towns like Youngstown and Pittsburgh. Mr. Elzer said there is no evidence showing fracking increasing methane levels in water. He said there are 13 wells within 6 miles of East Palestine and we should be part of the economic benefits that come with drilling. Mr. Figley stated there are currently 3 wells being fracked within 3 miles of here and they are using water from Beaver Lake. They can take the water level of that lake down one foot and then they have to stop and all 3 wells will be fracked with that same water. Mr. Elzer said none of the proposals have anything to do with fracking inside the city, Mr. Cohen said they can't control that aspect. Mr. Figley said it can't be controlled anyway, and Mr. Cohen said we can because they can't do it unless they get 65 % of the property. Mr. Figley asked if he felt there was a possibility of a well being drilled here and Mr. Cohen stated he felt there is a substantial chance. Mr. Cohen said a suburb of Cleveland that is half our size has 47 wells in the village limits. Mr. Elzer said they can't because every well takes two square miles and that isn't possible if they are half our size. Mr. Cohen said they didn't frack horizontally, they did it vertically straight down and Elzer said that is completely different. Mr. Powers stated vertical drilling only takes 40 acres not 640 acres and they only go down about 1/3 of what horizontal drilling goes. Mr. Cohen stated that council should not be a part of this. Mr. Elzer asked if he voted to sign a lease for the Village when Mr. Rea was looking around and Cohen stated he wasn't on Council then. Mr. Elzer said the four years that he has been here the village has been trying to lease property and there has been no resistance, Mr. Figley agreed saying residents were telling him we had to do this. Elzer said the people against this are coming up with things that aren't real, for example Mr. Cohen saying that Quicken loans would foreclose on a property if a lease was signed. Cohen said what he said was Quicken Loans would not write mortgages where there are gas leases and mortgages may have clauses saying they are not allowed to lease. Mr. Elzer said in the minutes that were just approved Mr. Cohen said "...they will foreclose on your property and so will Quicken Loans" and Cohen said yes, if you have a mortgage on a property that says you aren't allowed to lease. Mr. Elzer stated he had two letters from Quicken Loans saying that isn't true. At this point Tina Kosman in the audience stated Mr. Cohen was correct and came up to the table and showed council a copy of her mortgage agreement. Mr. Elzer said he also had letters from Hardcastle and Montgomery Realty saying this had no effect on them. Atty. Beagle stated a mortgage is a security interest in your house, for example if a person has a house worth \$10 and they mortgage it for \$5, that bank is saying the house has to be worth that \$5. When the values depreciate or a part of the property is sold such as the gas and mineral rights that are where that problem comes into play. Mr. Elzer said if you own your house and you lease it your property value goes because you now get revenue. Atty. Beagle said it doesn't because you sell that part of the property. Mr. Elzer asked if you can sell your property with or without the rights and Atty. Powers said that is correct. Mr. Cohen stated if he leased his property and then moved that the royalties would go with him, Atty. Powers said that is not correct. Atty. Beagle said that the people have spoken; Mr. Elzer said there are 5000 people and 10 have spoke against it. Atty. Beagle said there is the same problem with the survey because they only want to hear from the people who like it. Mr. Elzer said they voted two weeks ago to go ahead with it. Atty. Beagle said it doesn't go into effect for thirty days and the people have thirty days to speak about it. Mr. Cohen stated what scares him the most is the conflict of interest; he's concerned for all of them because it's a criminal offense. The Ohio Ethics Law states that "....no public official or employee shall use or authorize the use of authority for influence of his office or employment to secure anything of value" and "no public official or employee shall solicit or accept anything of value...." They are not even allowed to accept dinners from someone and now he is talking about accepting \$4000 per acre for his property. Cohen asked if Elzer saw a conflict with that and Elzer said if he was the only person getting it yes. Cohen said it isn't uniform; the only people getting it would be property owners. Mr. Figley stated we have the EPA who has investigated all of this, Mr. Cohen asked if we should let them put a gun to our heads and Figley said that we do that every day. Mr. Cohen said they just want to get the information out.

**CLERK: NO REPORT**

#### **MAYOR: NO REPORT**

**MANAGER:** Manager Monteleone stated Police Chief Dickey applied for and received a JAG Grant from the Office of Criminal Justice for a new phone system for the PD. The total amount was \$8,937.00 with a match of \$993.00. He stated he's working with Atty. Powers on several issues including raises and street levy going on the ballot, he met with County Commissioners about CDBG monies, working on the Bike Trail grant, working on the upcoming swimming pool season, working with John J. and MS Cons. on water issues, working on the Capital Improvement Plan, working with ODOT on the landslide issue on RT 170. He stated he is going to a floodplain management course in March and Ohio Emerg. Mgmt Agency pays for the room and board. Working on the gas aggregation and the Street Dept. has been out patching. Atty. Beagle asked about the gas & oil lease meeting that was in his report. Monteleone said that it was today. Mr. Elzer said he scheduled the meeting. He wanted the speakers to come to council tonight but they were unable to and because of Sunshine laws they were only able to have two council people there. The Mayor, Manager, Clerk, Law Director and Mrs. Wisser were there, the meeting was just to get the facts. Mrs. Wisser said it was very informative. Atty. Beagle stated that is the kind of information the people are looking for.

**LAW DIRECTOR:** Atty. Powers stated he gave council a written report. They resolved some pending criminal traffic matters and working with the Finance Director on finalizing payments on the Wheathill project.

#### **STREET: NO REPORT**

**SAFETY/PARK/REC/CEM:** Mr. Cohen stated they had a Park Board meeting and they discussed the transfer of the concession stand and asked when that would take place. Manager Monteleone said he had been working with Ms. Justison and she's been there a few times looking things over. Mr. Cohen asked about how the equipment there would be inventoried and Monteleone said he is meeting with Ms. Justison tomorrow to go over inventory. Mr. Cohen also asked about access to the concession stand and Monteleone said there is access through a storage space but that she could possible function without that space but if she does need that space he said the village would take the appropriate steps needed to secure that area and allow her access to only the concession area. Mrs. Wisser stated that you can now drop off old and outdated medications at the police department. Atty. Beagle asked what the harm was of flushing old medications. Mr. Elzer said the system isn't designed to treat for those things and would end up not treated and going into the water stream.

#### **DEVELOPMENT: NO REPORT**

**UTILITY:** Mrs. Wisser called a Utility Committee meeting for 6:30 prior to the next regular Council meeting on Monday March 10.

#### **FINANCE: NO REPORT**

**VISITORS:** Mary Anne Tyger, Jennifer Whiteford, Barbara Georgescu, Chuck McGuire, Alan & Rebecca Nelis, John & Dot Herbert, Dave Kibler, Traci Thompson, Chris & Tina Kosman, Jim & Becky Foster, Emery Coon, Dianna Elzer, Jerry Coblentz, Greg & Nancy Reeves, Diane Hartford, Jim Hartford, Dan Scott, Virginia Kiernan, John Martin, John & Bonnie Davis, Larry & Terri Ward, Jill McGee, Chief Kevin Dickey, Katie Schwendeman and one illegible signature.

#### **THERE WERE NO VISITORS COMMENTS ON CURRENT LEGISLATION**

**LEGISLATION:** Atty. Beagle introduced Ord. 3-2014 for a third reading and made a motion that it be read by title only, seconded by Mr. Cohen. **An ordinance authorizing the Municipal Manager to fill the previously authorized position of Building Inspector, with council further fixing the rate of compensation and hours of work, pursuant to Section 3.08 (d) of the Charter of the Municipality of East Palestine.** Atty. Beagle called for a vote on Ord. 3-2014. Atty. Beagle-y, Mr. Cohen-y, Mr. Elzer-y, Mr. Figley-y, Mr. Tyger-y, Mrs. Wisser-y. 6 YES to pass. Atty. Beagle introduced Ord. 5-2014 for a second reading and made a motion that it be read by title only, seconded by Mr. Cohen. **An ordinance providing for the authorization of the Municipal Manager to advertise for public bid the construction of the entire length of Sugar Camp Drive, the entire length of High St., The entire length of Leake St., Thomas St. from High to W. Grant, East St. from High to W. Grant, Pleasant Dr. south from E. Taggart to Village limits, W. Taggart from N. Market to West Alley and W. Main from Everett to Brookdale Ave, together known as the street resurfacing project and to further award and enter into a contract with the lowest and best bidder as relates to the contract, pursuant to the specifications and bidding requirements as determined by the Municipal Manager and in compliance with**

**law.** Atty. Beagle introduced Ord. 6-2014 for a first reading and made a motion that it be read by title only, seconded by Mr. Cohen. **An ordinance establishing wages for certain non-union village employees.** Mr. Figley stated he was concerned about the wages for the EMT’s because we have a difficult time recruiting them. Mr. Figley said the wages are too low and should be doubled, it’s a difficult job and they don’t get paid enough. Manager Montleone stated he had meetings with the Fire Chief about it, they talked about trying to get more step increases and after discussing it with the employees they came back and said they would prefer the straight 2.5 % raise. Mr. Figley said the people they want to be interested and take all of the training can’t do it \$9.61 or \$11.71 per hour. We are spending \$150,000.00 on ambulance but and we don’t have the people to run the ambulance and there should be consideration into what it would cost to double the wages and get more EMT’s. Mr. Cohen asked how we compared to surrounding communities, and Montleone said he didn’t have those numbers but he could ask the Fire Chief to the next meeting. Atty. Beagle introduced Ord. 7-2014 and made a motion that it be read by title only, seconded by Mr. Cohen. **This project is located in Unity Twp on SR 170 on the limits of the Village of East Palestine. The project includes the replacement of two culverts, rock excavation, slope embankment and pavement restoration. The project will be constructed under multiple phases, which include a road closure and detour. The entire cost of the subject project (PID 76009) will be borne by ODOT and the Federal Highway Administration. This ordinance is an emergency ordinance.** Atty. Beagle made a motion to suspend the rules and declare an emergency, seconded by Mr. Cohen. All in favor. Atty. Beagle called for a vote on Ord. 7-2014. Atty. Beagle-Y, Mr. Elzer-Y, Mr. Cohen-Y, Mr. Figley-Y, Mr. Tyger-Y, Mrs. Wisser-Y. 6 YES to pass.

**ADJOURN:** Mr. Cohen made a motion to adjourn, seconded by Mr. Elzer. All in favor, meeting adjourned.

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MAYOR MARGO ZUCH

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MISTI J. MARTIN-CLERK